

1 P. Kristofer Strojnik, SBN 242728
2 pstrojnik@strojniklaw.com
3 Esplanade Center III, Suite 700
4 2415 East Camelback Road
5 Phoenix, Arizona 85016
6 415-450-0100 (tel.)

7 Attorneys for Plaintiff

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10 THERESA BROOKE, a married woman
11 dealing with her sole and separate claim,

12 Plaintiff,

13 vs.

14 VAGHASHIA FAMILY LP, a Nevada
15 limited partnership,

16 Defendant.

Case No:

VERIFIED COMPLAINT

(JURY TRIAL DEMANDED)

17 Plaintiff alleges:

18 **PARTIES**

19 1. Plaintiff Theresa Brooke is a married woman. Plaintiff is legally disabled,
20 and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2),
21 the regulations implementing the ADA set forth at 28 CFR §§ 36.101 et seq., the
22 California Unruh Civil Rights Act. Plaintiff ambulates with the aid of a wheelchair due
23 to the loss of a leg.

24 2. Defendant, Vaghashia Family LP, owns and/or operates and does
25 business as the hotel Quality Inn Burbank Airport located at 2255 North Buena Vista
26 Street, Burbank, California 91504. Defendant's hotel is a public accommodation
27 pursuant to 42 U.S.C. § 12181(7)(A), which offers public lodging services. On
28 information and belief, Defendant's hotel was built or renovated after March 15, 2012.

JURISDICTION

3. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42 U.S.C. § 12188.

4. Plaintiff's claims asserted herein arose in this judicial district and Defendant does substantial business in this judicial district.

5. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

6. Pursuant to *Arroyo v. Rosas*, supplemental jurisdiction is appropriate over Plaintiff's Unruh claim. On a case-specific analysis, there are no compelling reasons to decline jurisdiction.

ALLEGATIONS

7. Plaintiff alleges that Defendant's hotel does not have a compliant access aisle at the passenger loading zone adjacent to the hotel lobby in violation of Sections 209 and 503 of the 2010 Standards. An access aisle has specific requirements to be compliant with the Standards: It must be (1) 60 inches wide and at least 20 feet long, (2) it must have an accessible route adjoining it, and (3) it cannot be within a vehicular way. Section 503.3.

8. Plaintiff further alleges that Defendant's disabled parking spots are not in compliance with Section 208.3 of the Standards because they are not positioned at the shortest possible route to the accessible main entrance.

9. The requirement for an access aisle at a passenger loading zone is immensely important for a person in a wheelchair such as Plaintiff, as it provides safe access to the entry of the hotel and deters others from placing encumbrances or obstacles there such as a vehicle parking. An access aisle is akin to a cross-walk for pedestrians. Absence of an access aisle where required creates dangerous conditions for a person in a wheelchair such as Plaintiff.

1 10. Plaintiff formerly worked in the hospitality industry. She and her husband
2 are avid travelers to California for purposes of leisure travel and to “test” whether
3 various hotels comply with disability access laws. Testing is encouraged by the Ninth
4 Circuit.

5 11. Plaintiff traveled to Los Angeles in October 2023 for testing ADA
6 compliance and leisure travel. She anticipates lodging at and has concrete plans to lodge
7 at Defendant’s hotel in May 2024, but she will not honor her concrete plans if
8 Defendant has not provided notice of remediation by then.

9 12. During this trip, Plaintiff personally visited Defendant’s hotel.
10 Defendant’s hotel has a passenger loading zone because pickup and dropoff occurs
11 there and it is located directly outside of the lobby entrance. There are also design
12 features showing an intent for utilization as a passenger loading zone. For example,
13 there is a *porte cochere*, which by definition is a design feature for passenger loading
14 zones. According to the U.S. Access Board Technical Guidelines on Passenger Loading
15 Zones, passenger loading zones are so common at hotels that even it recognizes “many
16 hotel entrances” have the design features indicating an intent to utilize as PLZs.

17 13. While at Defendant’s hotel, she discovered that Defendant’s hotel has a
18 barrier to entry to the lobby, which is that the passenger loading zone does not have an
19 access aisle compliant with Section 503.3. It is an absolute requirement to have an
20 access aisle at a passenger loading zone pursuant to Sections 209 and 503. The
21 requirement of an access aisle at a passenger loading zone relates to Plaintiff’s
22 disability of not having one leg and being forced to use a wheelchair because access
23 aisles are required so persons in a wheelchair can maneuver without threat of danger
24 from other vehicles and without other encumbrances obstructing their pathway. The
25 lobby, therefore, is inaccessible to Plaintiff by way of the passenger loading zone
26 because there is no access aisle.

27 14. As an alternative to stopping in the passenger loading zone, Plaintiff
28 looked for disabled parking spots. However, the Hotel’s disabled parking spots were not

1 placed closest to the Hotel main entrance. Instead, standard, non-disabled parking spots
2 were closest to the Hotel main entrance. Section 208.3 of the 2010 Standards requires
3 that disabled parking spots be placed at the shortest possible route to the accessible
4 entrance, but Defendant instead placed non-disabled parking spots at the shortest
5 possible route. Plaintiff therefore was further deterred because the disabled parking
6 spots were not positioned to be the shortest possible route to the Hotel main entrance,
7 which double-downed on Defendant's limitation on access to the main entrance (access
8 aisle, supra).

9 15. Plaintiff gained actual and personal knowledge of a barrier while visiting
10 Defendant's hotel (no access aisle at passenger loading zone), and as a result, she was
11 deterred from entering the hotel both from the barrier and due to the lack of equality.
12 She anticipates returning to this hotel and has concrete plans to do so in May 2024 (see
13 above), but she will only lodge at the hotel if Defendant remediates and gives notice of
14 such remediation before her definitive return. Visiting otherwise would be futile
15 because the lack of the access aisle represents a barrier to entering the lobby.

16 16. It is readily achievable and inexpensive to modify the hotel to provide an
17 access aisle, which involves painting and measuring tools.

18 17. Without injunctive relief, Plaintiff and others will continue to be unable to
19 independently use Defendant's hotel in violation of her rights under the ADA.

20 **FIRST CAUSE OF ACTION**

21 18. Plaintiff incorporates all allegations heretofore set forth.

22 19. Defendant has discriminated against Plaintiff and others in that it has
23 failed to make its public lodging services fully accessible to, and independently usable
24 by, individuals who are disabled in violation of 42 U.S.C. § 12182(a) and §
25 12182(b)(2)(iv) and the 2010 Standards, as described above.

26 20. Defendant has discriminated against Plaintiff in that it has failed to
27 remove architectural barriers to make its lodging services fully accessible to, and
28

1 independently usable by individuals who are disabled in violation of 42 U.S.C.
2 §12182(b)(A)(iv) and the 2010 Standards, as described above. Compliance with the
3 2010 Standards would neither fundamentally alter the nature of Defendant's lodging
4 services nor result in an undue burden to Defendant.

5 21. In violation of the 2010 Standards, Defendant's hotel passenger loading
6 zone does not have a disability access aisle compliant with Section 503.3 of the
7 Standards.

8 22. Compliance with 42 U.S.C. § 12182(b)(2)(A)(iv) and the 2010 Standards,
9 as described above, is readily achievable by the Defendant. *Id.* Readily achievable
10 means that providing access is easily accomplishable without significant difficulty or
11 expense.

12 23. Defendant's conduct is ongoing, and Plaintiff invokes her statutory right
13 to declaratory and injunctive relief, as well as costs and attorneys' fees.

14 24. Without the requested injunctive relief, Defendant's non-compliance with
15 the ADA's requirements that its passenger loading zone be fully accessible to, and
16 independently useable by, disabled people is likely to recur.

17 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 18 a. Declaratory Judgment that at the commencement of this action Defendant
19 was in violation of the specific requirements of Title III of the ADA
20 described above, and the relevant implementing regulations of the ADA;
21 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
22 36.504(a) which directs Defendant to take all steps necessary to bring its
23 passenger loading zone into full compliance with the requirements set
24 forth in the ADA;
25 c. Payment of costs and attorney's fees;
26 d. Provision of whatever other relief the Court deems just, equitable and
27 appropriate.

28 **SECOND CAUSE OF ACTION**

25. Plaintiff incorporates all allegations heretofore set forth.

1 26. Defendant has discriminated against Plaintiff and others in that it has
2 failed to make its public lodging services fully accessible to, and independently usable
3 by, individuals who are disabled in violation of 42 U.S.C. § 12182(a) and §
4 12182(b)(2)(iv) and the 2010 Standards, as described above.

5 27. Defendant has discriminated against Plaintiff in that it has failed to
6 remove architectural barriers to make its lodging services fully accessible to, and
7 independently usable by individuals who are disabled in violation of 42 U.S.C.
8 §12182(b)(A)(iv) and the 2010 Standards, as described above. Compliance with the
9 2010 Standards would neither fundamentally alter the nature of Defendant's lodging
10 services nor result in an undue burden to Defendant.

11 28. In violation of the 2010 Standards, Defendant's disabled parking spots are
12 not positioned at the shortest possible route to the main entrance of the Hotel in
13 violation of Section 208.3 of the Standards.

14 29. Compliance with 42 U.S.C. § 12182(b)(2)(A)(iv) and the 2010 Standards,
15 as described above, is readily achievable by the Defendant. *Id.* Readily achievable
16 means that providing access is easily accomplishable without significant difficulty or
17 expense.

18 30. Defendant's conduct is ongoing, and Plaintiff invokes her statutory right
19 to declaratory and injunctive relief, as well as costs and attorneys' fees.

20 31. Without the requested injunctive relief, Defendant's non-compliance with
21 the ADA's requirements that its disabled parking spots and Hotel entrance be fully
22 accessible to, and independently useable by, disabled people is likely to recur.

23 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 24 a. Declaratory Judgment that at the commencement of this action Defendant
25 was in violation of the specific requirements of Title III of the ADA
26 described above, and the relevant implementing regulations of the ADA;
27 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
28 36.504(a) which directs Defendant to take all steps necessary to bring its
 disabled parking spots into full compliance with the requirements set forth
 in the ADA;

1
2 c. Payment of costs and attorney's fees;

3 d. Provision of whatever other relief the Court deems just, equitable and
4 appropriate.

5 **THIRD CAUSE OF ACTION**

6 32. Plaintiff realleges all allegations heretofore set forth.

7 33. Defendant has violated the Unruh by denying Plaintiff equal access to its
8 public accommodation on the basis of her disability as outlined above.

9 34. Unruh provides for declaratory and monetary relief to "aggrieved
10 persons" who suffer from discrimination on the basis of their disability.

11 35. Plaintiff has been damaged by the Defendant's non-compliance with
12 Unruh.

13 36. Pursuant to Cal Civ. Code §52, Plaintiff is further entitled to such other
14 relief as the Court considers appropriate, including monetary damages in an amount of
15 \$4,000.00, and not more.

16 37. Pursuant to Unruh, Plaintiff is entitled to attorney's fees and costs in an
17 amount to be proven at trial.

18 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

19 a. Declaratory Judgment that at the commencement of this action Defendant
20 was in violation of the specific requirements of Unruh; and

21 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
22 36.504(a) which directs Defendant to take all steps necessary to bring its
23 passenger loading zone and disabled parking spaces into full compliance
with the requirements set forth in the ADA;

24 c. Payment of costs and attorney's fees;

25 d. Damages in the amount of \$8,000.00; and

26 e. Provision of whatever other relief the Court deems just, equitable and
27 appropriate.

28 **DEMAND FOR JURY TRIAL**

